**Court No.3**

**Recall/Restoration application no. 558 of 2002**

Bhuwan Chandra Pandey ..Applicant.

Versus

Upper Sessions judge, Almora
And others ..Opposite parties.

**Hon'ble Irshad Hussain, J.**

Heard Sri B.S. Khanka, learned counsel for the applicant and Sri D.K.Sharma learned Addl. Government Advocate appearing on behalf of the State.

This is a petition for recall of the order dated 31.10.2002 on the ground that the revisionist could not appear in the Court. The revision was dismissed on merit after hearing the A.G.A. and perusing the impugned judgment. It is of significance that all the witnessed of prosecution including the petitioner-revisionist have turned hostile and did not support the prosecution version.

Attention has been drawn to Annexure I to the main revision which is an application given the petitioner-revisionist to the District Magistrate alleging that his statement in the Court was recorded under duress and threat given by the accused party. This is again an admission that the petitioner-revisionist had not supported the prosecution version before the competent court on oath and in view thereof, the learned trial Judge was fully justified in holding that the charge leveled against the accused was not proved beyond reasonable doubt. Therefore, it will not be in the interest of justice to set aside the order dated 31.10.2002 and the petition is therefore dismissed.

**(Irshad Hussain, J.)**

13.11.02/B.